

1 SO. CAL. EQUAL ACCESS GROUP
2 Jason J. Kim (SBN 190246)
3 Jason Yoon (SBN 306137)
4 Kevin Hong (SBN 299040)
5 101 S. Western Ave., Second Floor
6 Los Angeles, CA 90004
7 Telephone: (213) 205-6560
8 cm@SoCalEAG.com

9 Attorneys for Plaintiff
10 JEREMY HOLLAND

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

JEREMY HOLLAND,
Plaintiff,
vs.

MARIO VIRGEN D/B/A DEL FRESNO
MOTORS; and DOES 1 to 10,
Defendants.

Case No.:

COMPLAINT FOR INJUNCTIVE
RELIEF AND DAMAGES FOR DENIAL
OF CIVIL RIGHTS OF A DISABLED
PERSON IN VIOLATIONS OF

1. AMERICANS WITH DISABILITIES
ACT, 42 U.S.C. §12131 et seq.;
2. CALIFORNIA'S UNRUH CIVIL
RIGHTS ACT;
3. CALIFORNIA'S DISABLED
PERSONS ACT;
4. CALIFORNIA HEALTH & SAFETY
CODE;
5. NEGLIGENCE

Plaintiff JEREMY HOLLAND ("Plaintiff") complains of Defendants MARIO
VIRGEN D/B/A DEL FRESNO MOTORS; and DOES 1 to 10 ("Defendants") and
alleges as follows:

PARTIES

1. Plaintiff is a California resident with a physical disability. Plaintiff is
diagnosed with complete paraplegia due to spinal cord injury and is substantially limited

1 in his ability to walk. Plaintiff requires the use of a wheelchair at all times when traveling
2 in public.

3 2. Defendants are, or were at the time of the incident, the real property owners,
4 business operators, lessors and/or lessees of the real property for a car dealership
5 (“Business”) located at or about 5041 E. Olympic Blvd., Los Angeles, California.

6 3. The true names and capacities, whether individual, corporate, associate or
7 otherwise of Defendant DOES 1 through 10, and each of them, are unknown to Plaintiff,
8 who therefore sues said Defendants by such fictitious names. Plaintiff will ask leave of
9 Court to amend this Complaint when the true names and capacities have been
10 ascertained. Plaintiff is informed and believes and, based thereon, alleges that each such
11 fictitiously named Defendants are responsible in some manner, and therefore, liable to
12 Plaintiff for the acts herein alleged.

13 4. Plaintiff is informed and believes, and thereon alleges that, at all relevant
14 times, each of the Defendants was the agent, employee, or alter-ego of each of the other
15 Defendants, and/or was acting in concert with each of the other Defendants, and in doing
16 the things alleged herein was acting with the knowledge and consent of the other
17 Defendants and within the course and scope of such agency or employment relationship.

18 5. Whenever and wherever reference is made in this Complaint to any act or
19 failure to act by a defendant or Defendants, such allegations and references shall also be
20 deemed to mean the acts and failures to act of each Defendant acting individually, jointly
21 and severally.

22 **JURISDICTION AND VENUE**

23 6. The Court has jurisdiction of this action pursuant to 28 USC §§ 1331 and
24 1343 for violation of the Americans with Disabilities Act of 1990, (42 USC §12101, *et*
25 *seq.*).

26 7. Pursuant to pendant jurisdiction, attendant and related causes of action,
27 arising from the same nucleus of operating facts, are also brought under California law,
28

1 including, but not limited to, violations of California Civil Code §§51, 51.5, 52(a), 52.1,
2 54, 54., 54.3 and 55.

3 8. Plaintiff's claims are authorized by 28 USC §§ 2201 and 2202.

4 9. Venue is proper in this court pursuant to 28 USC §1391(b). The real
5 property which is the subject of this action is located in this district, Los Angeles County,
6 California, and that all actions complained of herein take place in this district.

7 **FACTUAL ALLEGATIONS**

8 10. In or about September of 2024, Plaintiff went to the Business.

9 11. The Business is a car dealership business establishment, open to the public,
10 and is a place of public accommodation that affects commerce through its operation.

11 12. While attempting to enter the Business during each visit, Plaintiff personally
12 encountered a number of barriers that interfered with his ability to use and enjoy the
13 goods, services, privileges, and accommodations offered at the Business.

14 13. To the extent of Plaintiff's personal knowledge, the barriers at the Business
15 included, but were not limited to, the following:

16 a. Defendants failed to maintain accessibility for persons with
17 disabilities to comply with the federal and state standards. Defendants
18 failed to provide at least one accessible entrance as required as the
19 entrance had stairs instead of a proper ramp.

20 b. Defendants failed to maintain accessibility for persons with
21 disabilities to comply with the federal and state standards. Defendants
22 failed to provide a compliant access route to the entrance of the
23 Business as there were cars habitually parked blocking the access
24 route, which did not meet the minimum width requirement allowed by
25 the Standards

26 14. These barriers and conditions denied Plaintiff the full and equal access to the
27 Business and caused Plaintiff difficulty and frustration. Plaintiff wishes to return and
28 patronize the Business; however, Plaintiff is deterred from visiting the Business because

1 his knowledge of these violations prevents him from returning until the barriers are
2 removed.

3 15. Based on the violations, Plaintiff alleges, on information and belief, that
4 there are additional barriers to accessibility at the Business after further site inspection.
5 Plaintiff seeks to have all barriers related to his disability remedied. *See Doran v. 7-
6 Eleven, Inc.* 524 F.3d 1034 (9th Cir. 2008).

7 16. In addition, Plaintiff alleges, on information and belief, that Defendants
8 knew that particular barriers render the Business inaccessible, violate state and federal
9 law, and interfere with access for the physically disabled.

10 17. At all relevant times, Defendants had and still have control and dominion
11 over the conditions at this location and had and still have the financial resources to
12 remove these barriers without much difficulty or expenses to make the Business
13 accessible to the physically disabled in compliance with ADDAG and Title 24
14 regulations. Defendants have not removed such barriers and have not modified the
15 Business to conform to accessibility regulations.

16 **FIRST CAUSE OF ACTION**

17 **VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990**

18 18. Plaintiff incorporates by reference each of the allegations in all prior
19 paragraphs in this complaint.

20 19. Under the Americans with Disabilities Act of 1990 (“ADA”), no individual
21 shall be discriminated against on the basis of disability in the full and equal enjoyment of
22 the goods, services, facilities, privileges, advantages, or accommodations of any place of
23 public accommodation by any person who owns, leases, or leases to, or operates a place
24 of public accommodation. *See* 42 U.S.C. § 12182(a).

25 20. Discrimination, *inter alia*, includes:

- 26 a. A failure to make reasonable modification in policies, practices, or
27 procedures, when such modifications are necessary to afford such
28 goods, services, facilities, privileges, advantages, or accommodations

1 to individuals with disabilities, unless the entity can demonstrate that
2 making such modifications would fundamentally alter the nature of
3 such goods, services, facilities, privileges, advantages, or
4 accommodations. 42 U.S.C. § 12182(b)(2)(A)(ii).

5 b. A failure to take such steps as may be necessary to ensure that no
6 individual with a disability is excluded, denied services, segregated or
7 otherwise treated differently than other individuals because of the
8 absence of auxiliary aids and services, unless the entity can
9 demonstrate that taking such steps would fundamentally alter the
10 nature of the good, service, facility, privilege, advantage, or
11 accommodation being offered or would result in an undue burden. 42
12 U.S.C. § 12182(b)(2)(A)(iii).

13 c. A failure to remove architectural barriers, and communication barriers
14 that are structural in nature, in existing facilities, and transportation
15 barriers in existing vehicles and rail passenger cars used by an
16 establishment for transporting individuals (not including barriers that
17 can only be removed through the retrofitting of vehicles or rail
18 passenger cars by the installation of a hydraulic or other lift), where
19 such removal is readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv).

20 d. A failure to make alterations in such a manner that, to the maximum
21 extent feasible, the altered portions of the facility are readily
22 accessible to and usable by individuals with disabilities, including
23 individuals who use wheelchairs or to ensure that, to the maximum
24 extent feasible, the path of travel to the altered area and the
25 bathrooms, telephones, and drinking fountains serving the altered
26 area, are readily accessible to and usable by individuals with
27 disabilities where such alterations to the path or travel or the
28 bathrooms, telephones, and drinking fountains serving the altered area

1 are not disproportionate to the overall alterations in terms of cost and
2 scope. 42 U.S.C. § 12183(a)(2).

3 21. At least one accessible route shall connect accessible building, facilities,
4 elements, and spaces that are on the same site. 1991 ADA Standards § 4.3.2. A public
5 accommodation shall maintain in operable working condition those features of facilities
6 and equipment that are required to be readily accessible to and usable by persons with
7 disabilities by the Act or this part. 28 C.F.R. 35.211(a).

8 22. Here, Defendants failed to provide at least one accessible entrance to the
9 Business as the entrance had stairs instead of a proper ramp.

10 23. Except as provided in 403.5.2 and 403.5.3, the clear width of walking
11 surfaces shall be 36 inches (915 mm) minimum. 2010 ADA Standards § 405.3.5.1.

12 24. Here, the access route did not meet the minimum width requirement allowed
13 by the Standards as there were cars habitually parked blocking the access route.

14 25. A public accommodation shall maintain in operable working condition those
15 features of facilities and equipment that are required to be readily accessible to and usable
16 by persons with disabilities by the Act or this part. 28 C.F.R. 35.211(a).

17 26. By failing to maintain the facility to be readily accessible and usable by
18 Plaintiff, Defendants are in violation of Plaintiff's rights under the ADA and its related
19 regulations.

20 27. The Business has denied and continues to deny full and equal access to
21 Plaintiff and to other people with disabilities. Plaintiff has been and will continue to be
22 discriminated against due to the lack of accessible facilities, and therefore, seeks
23 injunctive relief to alter facilities to make such facilities readily accessible to and usable
24 by individuals with disabilities.

25 **SECOND CAUSE OF ACTION**

26 **VIOLATION OF THE UNRUH CIVIL RIGHTS ACT**

27 28. Plaintiff incorporates by reference each of the allegations in all prior
28 paragraphs in this complaint.

1 29. California Civil Code § 51 states, “All persons within the jurisdiction of this
2 state are free and equal, and no matter what their sex, race, color, religion, ancestry,
3 national origin, disability, medical condition, genetic information, marital status, sexual
4 orientation, citizenship, primary language, or immigration status are entitled to the full
5 and equal accommodations, advantages, facilities, privileges, or services in all business
6 establishments of every kind whatsoever.”

7 30. California Civil Code § 52 states, “Whoever denies, aids or incites a denial,
8 or make any discrimination or distinction contrary to Section 51, 51.5, or 51.6, is liable
9 for each and every offense for the actual damages, and any amount that may be
10 determined by a jury, or a court sitting without a jury, up to a maximum of three times the
11 amount of actual damage but in no case less than four thousand dollars (\$4,000) and any
12 attorney’s fees that may be determined by the court in addition thereto, suffered by any
13 person denied the rights provided in Section 51, 51.5, or 51.6.

14 31. California Civil Code § 51(f) specifies, “a violation of the right of any
15 individual under federal Americans with Disabilities Act of 1990 (Public Law 101-336)
16 shall also constitute a violation of this section.”

17 32. The actions and omissions of Defendants alleged herein constitute a denial
18 of full and equal accommodation, advantages, facilities, privileges, or services by
19 physically disabled persons within the meaning of California Civil Code §§ 51 and 52.
20 Defendants have discriminated against Plaintiff in violation of California Civil Code §§
21 51 and 52.

22 33. The violations of the Unruh Civil Rights Act caused Plaintiff to experience
23 difficulty, discomfort, or embarrassment. The Defendants are also liable for statutory
24 damages as specified in California Civil Code §55.56(a)-(c).

25 **THIRD CAUSE OF ACTION**

26 **VIOLATION OF CALIFORNIA DISABLED PERSONS ACT**

27 34. Plaintiff incorporates by reference each of the allegations in all prior
28 paragraphs in this complaint.

1 35. California Civil Code § 54.1(a) states, “Individuals with disabilities shall be
2 entitled to full and equal access, as other members of the general public, to
3 accommodations, advantages, facilities, medical facilities, including hospitals, clinics,
4 and physicians’ offices, and privileges of all common carriers, airplanes, motor vehicles,
5 railroad trains, motorbuses, streetcars, boats, or any other public conveyances or modes
6 of transportation (whether private, public, franchised, licensed, contracted, or otherwise
7 provided), telephone facilities, adoption agencies, private schools, hotels, loading places,
8 places of public accommodations, amusement, or resort, and other places in which the
9 general public is invited, subject only to the conditions and limitations established by
10 law, or state or federal regulation, and applicable alike to all persons.

11 36. California Civil Code § 54.3(a) states, “Any person or persons, firm or
12 corporation who denies or interferes with admittance to or enjoyment of public facilities
13 as specified in Sections 54 and 54.1 or otherwise interferes with the rights of an
14 individual with a disability under Sections 54, 54.1 and 54.2 is liable for each offense for
15 the actual damages, and any amount as may be determined by a jury, or a court sitting
16 without a jury, up to a maximum of three times the amount of actual damages but in no
17 case less than one thousand dollars (\$1,000) and any attorney’s fees that may be
18 determined by the court in addition thereto, suffered by any person denied the rights
19 provided in Section 54, 54.1, and 54.2.

20 37. California Civil Code § 54(d) specifies, “a violation of the right of an
21 individual under Americans with Disabilities Act of 1990 (Public Law 101-336) also
22 constitute a violation of this section, and nothing in this section shall be construed to limit
23 the access of any person in violation of that act.

24 38. The actions and omissions of Defendants alleged herein constitute a denial
25 of full and equal accommodation, advantages, and facilities by physically disabled
26 persons within the meaning of California Civil Code § 54. Defendants have
27 discriminated against Plaintiff in violation of California Civil Code § 54.
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1 39. The violations of the California Disabled Persons Act caused Plaintiff to
2 experience difficulty, discomfort, and embarrassment. The Defendants are also liable for
3 statutory damages as specified in California Civil Code §55.56(a)-(c).

4 **FOURTH CAUSE OF ACTION**

5 **CALIFORNIA HEALTH & SAFETY CODE § 19955, et seq.**

6 40. Plaintiff incorporates by reference each of the allegations in all prior
7 paragraphs in this complaint.

8 41. Plaintiff and other similar physically disabled persons who require the use of
9 a wheelchair are unable to use public facilities on a “full and equal” basis unless each
10 such facility is in compliance with the provisions of California Health & Safety Code §
11 19955 et seq. Plaintiff is a member of the public whose rights are protected by the
12 provisions of California Health & Safety Code § 19955 et seq.

13 42. The purpose of California Health & Safety Code § 1995 et seq. is to ensure
14 that public accommodations or facilities constructed in this state with private funds
15 adhere to the provisions of Chapter 7 (commencing with Section 4450) of Division 5 of
16 Title 1 of the Government Code. The code relating to such public accommodations also
17 require that “when sanitary facilities are made available for the public, clients, or
18 employees in these stations, centers, or buildings, they shall be made available for
19 persons with disabilities.

20 43. Title II of the ADA holds as a “general rule” that no individual shall be
21 discriminated against on the basis of disability in the full and equal enjoyment of goods
22 (or use), services, facilities, privileges, and accommodations offered by any person who
23 owns, operates, or leases a place of public accommodation. 42 U.S.C. § 12182(a).
24 Further, each and every violation of the ADA also constitutes a separate and distinct
25 violation of California Civil Code §§ 54(c) and 54.1(d), thus independently justifying an
26 award of damages and injunctive relief pursuant to California law, including but not
27 limited to Civil Code § 54.3 and Business and Professions Code § 17200, et seq.

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FIFTH CAUSE OF ACTION
NEGLIGENCE

44. Plaintiff incorporates by reference each of the allegations in all prior paragraphs in this complaint.

45. Defendants have a general duty and a duty under the ADA, Unruh Civil Rights Act and California Disabled Persons Act to provide safe and accessible facilities to the Plaintiff.

46. Defendants breached their duty of care by violating the provisions of ADA, Unruh Civil Rights Act and California Disabled Persons Act.

47. As a direct and proximate result of Defendants' negligent conduct, Plaintiff has suffered damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays for relief and judgment against Defendants as follows:

1. For preliminary and permanent injunction directing Defendants to comply with the Americans with Disability Act and the Unruh Civil Rights Act;

2. Award of all appropriate damages, including but not limited to statutory damages, general damages and treble damages in amounts, according to proof;

3. Award of all reasonable restitution for Defendants' unfair competition practices;

4. Reasonable attorney's fees, litigation expenses, and costs of suit in this action;

5. Prejudgment interest pursuant to California Civil Code § 3291; and

6. Such other and further relief as the Court deems just and proper.

DEMAND FOR TRIAL BY JURY

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff hereby demands a trial by jury on all issues so triable.

Dated: December 19, 2024

SO. CAL. EQUAL ACCESS GROUP

By: /s/ Jason J. Kim
Jason J. Kim, Esq.
Attorneys for Plaintiff